

MAY 29 2003

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CATHY A. CATTERSON
U.S. COURT OF APPEALS

TERRANCE MACEDON,

Plaintiff - Appellant,

v.

CALIFORNIA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants - Appellees.

No. 02-15436

D.C. No. CV-S-00-01438-
WBS JFM P

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
William B. Shubb, District Judge, Presiding

Submitted May 13, 2003**
San Francisco, California

Before: HAWKINS and FLETCHER, W., Circuit Judges, and BREYER,
District Judge.***

Appellant Terrance Macedon, a California prison inmate, challenges

*This disposition is not appropriate for publication and may not be cited to
or by the courts of this circuit except as may be provided by 9th Cir. R. 36-3.

**This panel unanimously finds this case suitable for decision without oral
argument. See Fed. R. App. 34(a)(2).

*** Honorable Charles R. Breyer, United States District Judge for the
Northern District of California, sitting by designation.

appellees' refusal to allow him family visits. He contends the California Code of Regulations, Title 15, § 3174, creates a liberty interest in family visits protected by the Due Process Clause of the United States Constitution. The district court granted summary judgment in favor of appellees. We affirm.

“States may under certain circumstances create liberty interests which are protected by the Due Process Clause.” Sandin v. Conner, 515 U.S. 472, 483-84 (1995). Those circumstances, however, are “generally limited to freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of the its own force, . . . nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” Id. at 484.

A refusal to permit an inmate family visits does not impose an atypical and significant hardship; rather, an inmate's inability to visit with whom he wishes is an “ordinary incident of prison life.” See id. at 485 (holding that disciplinary segregated confinement is not a “dramatic departure” from the basic conditions of incarceration); see also Kentucky Dep't of Corr. v. Thompson, 490 U.S. 454, 461 (1989) (“The denial of prison access to a particular visitor is well within the terms of confinement ordinarily contemplated by a prison sentence, and therefore is not independently protected by the Due Process Clause.”) (internal quotation marks and citation omitted); Toussaint v. McCarthy, 801 F.2d 1080, 1114 (9th Cir.

1986) (noting that the denial of contact visits “is part of the penalty that criminals pay for their offenses against society”). Accordingly, appellant’s complaint did not state a claim for violation of his constitutional rights.

AFFIRMED.